

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

2006 JAN -4 P 5: 28

STEVEN R. KINCAID,

Plaintiff,

vs.

BANK OF AMERICA CORPORATION,

Defendant.

CA No. 04 CV 11522 WGY

DEFENDANT'S MOTION FOR PERMISSION TO FILE
TREATMENT NOTES UNDER SEAL

Defendant Bank of America Corporation ("Bank of America" or "the Bank") hereby moves for permission to file treatment notes under seal. The Bank states that said treatment notes (the "Notes") are presently the subject of its motion for leave to utilize previously disclosed psychiatric treatment notes pertaining to the Plaintiff, and to question the Plaintiff's psychiatrist regarding those Notes, during the trial of this case ("Motion").

Out of an abundance of caution, the Bank requests the Court's permission to file these Notes contemporaneously with its Motion, but under seal. Accordingly, the Bank attaches the Notes hereto in a separate, sealed envelope marked as Exhibit 1. If the Court grants the Banks Motion, and allows the use of previously disclosed psychiatric treatment notes pertaining to Plaintiff, and to question Plaintiff's psychiatrist regarding those Notes, during trial of this case, the Bank respectfully requests that the Court unseal the Notes for use in this case.

BANK OF AMERICA CORPORATION,
Defendant
By its attorneys,

/s/Siobhan Sweeney
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Dated: January 4, 2006.

Certification of Conference Pursuant to LR 7.1

I hereby certify that prior to filing, the parties, through their counsel, have conferred with respect to Defendant's Motion For Permission To File Treatment Notes Under Seal and the issues raised therein, in an effort to narrow the areas of disagreement.

/s/ Siobhan Sweeney